DOCKET NO.: IVPH-0065/12-68 US
Application No.: 09/924,502
Office Action Dated: August 23, 2005

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

In the Drawings:

Please substitute the attached three (3) pages of formal drawings for the three (3) pages of informal drawings in the file. No new matter has been added to the formal drawings.

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REMARKS

Claims 1, 4, 8, and 11-19 have been canceled. Claims 2, 3, 5, and 6 have been amended to depend from claim 9, and claim 9 has been placed in independent form. Claim 9 has also been amended to address the indefiniteness rejection of claim 9. Claims 7 and 10 have not been amended. No new matter has been added.

Claims 20-27 have been added. Independent claim 20 corresponds to claim 6 placed in independent form. Dependent claims 21-27 correspond to claims 2, 3, 5, 7, 8, 9, and 10, respectively, except that they depend from new claim 20. No new matter will be added by entry of these claims.

Upon entry of this amendment, claims 2-3, 5-7, 9-10, and 20-27 will be in the application.

Formal Drawings

Applicant has attached hereto formal drawings to replace the informal drawings of record. Entry and acceptance of the formal drawings are solicited.

Rejection Under 35 U.S.C. §112, First Paragraph

Claim 11 stands finally rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claim 11 has been canceled, thereby obviating this rejection. Withdrawal of the rejection of claim 11 is solicited.

Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 9 and 15 stand finally rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claim 9 has been amended so that it clearly specifies what is included (variable parameter) and excluded (static parameter) by the claim language. Claim 15 has been canceled, thereby obviating this rejection with respect to claim 15. Withdrawal of the rejection of claims 9 and 15 is solicited.

Objection to the Specification

The specification stands finally objected to as allegedly failing to provide proper antecedent basis for the "non-volatile memory" claimed in claim 11. Claim 11 has been canceled, thereby obviating this objection. Withdrawal of the objection to the specification is solicited.

Rejection Under 35 U.S.C. §102(a)

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Claims 16-19 stand finally rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Yu (WO 00/62458). Claims 16-19 have been canceled, thereby obviating this rejection. Withdrawal of the rejection of claims 16-19 is solicited.

Rejections Under 35 U.S.C. §103(a)

Claims 1-3, 5, and 8 stand finally rejected under 35 U.S.C. §103(a) as allegedly being obvious over Weiss (US 4,720,860) in view of Yu (WO 00/62458). Claims 1 and 8 have been canceled, thereby obviating this rejection with respect to claims 1 and 8. Claims 2, 3, and 5 have been amended to depend from claim 9, which has been placed in independent form. In view of the Examiner's indication that claim 9 contains allowable subject matter, allowance of claims 2, 3, and 5 is believed appropriate. Withdrawal of the rejection of claims 1-3, 5, and 8 and allowance of claims 2, 3, and 5 are solicited.

Claims 11, 12, and 15 stand finally rejected under 35 U.S.C. §103(a) as allegedly being obvious over Yu (WO 00/62458). Claims 11, 12 and 15 have been canceled, thereby obviating this rejection with respect to claims 11, 12 and 15. Withdrawal of the rejection of claims 11, 12 and 15 is solicited.

Claims 6-7 and 13-14 stand finally rejected under 35 U.S.C. §103(a) as allegedly being obvious over Weiss (US 4,720,860) in view of Yu (WO 00/62458) and Jalili (US 6,209,104). Claims 13 and 14 have been canceled, thereby obviating this rejection with respect to claims 13 and 14. Claim 6 has been rewritten in independent form (including features of claim 1) as new independent claim 20. Dependent claims 21-27 correspond to claims 2, 3, 5, 7, 8, 9, and 10, respectively, except that they depend from new claim 20. Allowance of new claims 20-27 is respectfully requested for the reasons given below.

As set forth in M.P.E.P. §§2142-2143.03, in order to establish a *prima facie* case of obviousness, patent examiners are required to establish three criteria: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference, or combination of references, must teach or suggest all the claim limitations. The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To make a proper obviousness determination, the examiner must "step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the

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art' when the invention was unknown and just before it was made." In view of the available factual information, the examiner must make a determination as to whether the claimed invention "as a whole" would have been obvious at that time to a person of ordinary skill in the art. Importantly, a rejection based on these criteria must be based on what is taught in the prior art, not the applicant's disclosure. The applicant's disclosure may not be used as a blueprint from which to construct an obviousness rejection.

New claim 20 recites a method of password verification comprising:

providing a process for transforming at least a variable parameter into an ordered string of characters, wherein the process sometimes results in different ordered strings of characters for a same variable parameter, the process including providing data to a user for interpretation by the user and then comparing the user's interpretation to a predetermined known interpretation;

providing at least a static parameter and at least a variable parameter selected from a plurality of variable parameters as a known password, the known password modifiable, as to the selected at least a variable parameter and as to a location and order of the at least a variable parameter within the known password;

determining from data available to an individual and from the known password a static string;

providing the determined static string as a password for verification; and

verifying the static string to determine that it is an accurate transformation of the at least a variable parameter according to the provided process and when the determination is that the transformation is accurate, providing an indication that the password is verified.

Applicant submits that the Examiner has not provided a suggestion or motivation to enable one skilled in the art to combine the teachings of the references as proposed by the Examiner with respect to claim 6 and, in any case, the proposed combination of teachings does not teach or suggest all of the features in claim 6 (now claim 20). In view of the fact that any combination of Weiss, Yu and Jalili taken together do not teach all of the features of claim 20, even if the teachings of these references could be combined as the Examiner suggests, the method of claim 20 would not result. The Examiner has thus failed to establish *prima facie* obviousness with respect to claim 20.

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As an example, the Examiner has acknowledged that neither Weiss nor Yu provide any teachings of a process including the steps of "providing data to a user for interpretation by the user and then comparing the user's interpretation to a predetermined known interpretation" as claimed. For such a teaching, the Examiner relies upon Jalili; however, Jalili does not provide such a teaching either. Contrary to the Examiner's assertions, Jalili teaches displaying a plurality of icons associated with data and the user selecting icons that correspond to data to be input. The selected icon location information is compared to stored icon location information and associated data to determine the input by the user. This allows the user to provide input without directly exposing that data to observation or interception. (see Abstract; Figure 8; column 3, lines 1-22; column 6, line 28, through column 9, line 39). By contrast, the process in claim 20 includes providing data (e.g., an icon) to a user for interpretation by the user and then comparing the user's interpretation to a predetermined known interpretation. For example, an icon of a tree is displayed. The user may interpret that icon to mean "tree," "pine," "arbre," etc. as noted in paragraph [0036] of the specification. The user's input is not hidden from observation using an icon as in Jalili; instead the icon is presented to elicit the user's *interpretation* of that icon as a response used as all or part of the input password that is compared to a "predetermined known interpretation" to determine if access should be granted. Jalili does not provide such teachings.

The Examiner has further failed to provide a *prima facie* case of obviousness with respect to claim 20 since the Examiner has not met his burden of providing a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. Instead, the Examiner has provided general references to "providing a system that is user friendly, not susceptible to observation during data entry and resistant to interception." As noted above, the claimed method is not related to preventing observation during data entry or preventing password interception. As a result, one skilled in the art would not be motivated to combine such teachings to provide a method of dynamic password verification as claimed in claim 20. Accordingly, if the Examiner elects to maintain the obviousness rejection of claim 20, the Examiner is strongly urged to clearly articulate the evidence of suggestions, motivations, or

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knowledge possessed by those skilled in the art that would have led one skilled in the art to combine several prior art teachings to arrive at the claimed invention.

Accordingly, Applicant submits that claims 20-27 are allowable over the art of record. Allowance of claims 20-27 is solicited.

Allowable Subject Matter

Applicant appreciates the Examiner's indication in the Final Rejection that claims 9 and 10 contain allowable subject matter and would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph, and to include the limitations of base claims 1 and 8. Applicant has accordingly amended claim 9 to overcome the 35 U.S.C. §112, second paragraph, rejection and has placed claim 9 in independent form by incorporating the limitations of claims 1 and 8. Allowance of independent claim 9 and claims 2, 3, 5-7, and 10 dependent thereon is solicited.

Conclusion:

Entry of the above amendments in view of the above remarks is believed to place the present application in condition for allowance. Entry of the above amendments and issuance of a Notice of Allowability are respectfully solicited.

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